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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/935,413 | 08/23/2001 | Timothy Alan Dietz | AUS9-2001-0254-US1 | 9848 |

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| EXAMINER |
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TARAE, CATHERINE MICHELLE

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| ART UNIT | PAPER NUMBER |
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3623

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 03/07/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/935,413

Applicant(s)

DIETZ ET AL.

Examiner

C. Michelle Tarae

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-11, 13-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13-18 and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a Final office action in response to the application filed on December 11, 2006. Claims 1, 6-8, 13-15, 20-21 have been amended. Claims 22-24 have been added. Claims 5, 12 and 19 have been cancelled. Claims 1-4, 6-11, 13-18 and 20-24 are now pending in this application.

Response to Amendments

2. Applicant's amendments to claims 1, 6-8, 13-15, 20-21 are acknowledged. The addition of claims 22-24 and cancellation of claims 5, 12 and 19 are acknowledged.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 6-11, 13-18 and 20-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Aycock et al (U.S. 5,765,138).

As per claims 1, 7-8, 14-15 and 21, Aycock et al. teaches sending survey questions as question sets, including answers for user input selection, for receipt by supplier computer systems and for displaying by browsers of the supplier computer

systems (col. 3, lines 62-67; col. 6, lines 5-21; Figures 2 and 6; Suppliers answer questions in self-evaluations in RFPs/RFQs. Suppliers download the RFPs/RFQs to their system and access the RFPs/RFQs via their own interface.);

sending programming instructions for receipt and execution as applets by the browsers of the supplier computer systems, the instructions being for causing the supplier computer systems to return supplier survey answers to a server responsive to the applets processing user inputs and the survey questions, wherein the answers are defined in a certain format as data elements included in responding documents (col. 3, line 62-col. 4, line 6; col. 6, lines 55-67; Figure 2; Suppliers download the RFPs/RFQs to their system and access the RFPs/RFQs via their own interface. The answers are predefined in certain formats. The answers are includes as part of the RFPs/RFQs documents.);

parsing the data elements from the responding documents and evaluating the data elements (col. 6, lines 14-54; The responses are evaluated and assigned weights in accordance with maturity requirements.).

As per claims 2, 9 and 16, Aycock et al. teaches the certain format for the responding documents has answers identifiable as strings of text surrounded by text markups, wherein the text markups include tags describing the data elements (col. 7, lines 3-13; col. 13, lines 8-10 and 49-61; col. 14, lines 16-21; Suppliers responses may be in the form of text. The supplier responses correspond to specific questions describing maturity requirements, or data elements. Supplier responses are saved in a supplier response file.).

As per claims 3, 10 and 17, Aycock et al. teaches the questions and their corresponding answers are organized in categories according to subject matter (col. 6, lines 37-54; The answers are organized according to maturity requirements and levels.).

As per claims 4, 11 and 18, Aycock et al. teaches the categories include development process, quality, enterprise, platform, operating system and environment (col. 3, lines 9-13; col. 6, lines 37-54).

As per claims 6, 13 and 20, Aycock et al. teaches receiving survey inputs from one or more evaluators, wherein the evaluating of the data elements comprises:

comparing the data elements by a computer application to corresponding ones of the evaluator requirements, wherein the data elements provide quantitative values and the evaluator inputs define evaluator requirements as quantitative values for the respective data elements, such a evaluator requirement quantitative value indicating a desired amount for the corresponding data element, and wherein the comparing produces quantitative correlations between respective evaluator requirements and data elements (col. 6, lines 14-54; col. 7, lines 14-37; Supplier responses are compared to maturity requirements and assigned weighting factors to come up with a score in which multiple suppliers can be evaluated and compared.).

As per claims 22-24, Aycock et al. teaches the computer application combining the correlations responsive to the weights (col. 6, lines 14-54; col. 7, lines 14-37).

Response to Arguments

5. Applicant's are moot in view of the new grounds of rejections provided above.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Plantec (U.S. 6,826,540) discusses an interface for conducting surveys.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



C. Michelle Tarae
Primary Patent Examiner
Art Unit 3623

March 2, 2007